

IN THE HIGH COURT OF UTTARANCHAL AT
NAINITAL

WRIT PETITION NO. 627 (MS) OF 2006

Som Prakash Maheshwari,
S/o Sri Puran Chand Maheshwari,
R/o House No. 9, Chetandev Kutia,
Kankhal, Tehsil and District Haridwar. Petitioner.

Versus

1. District Judge, Haridwar.
2. Rent Control and Eviction officer/City Magistrate,
Haridwar.
3. Smt. Nisha Bishnoi,
W/o Sri Chandra Prakash Bishnoi,
R/o House No. 10, 11 Chetandev Kutia,
Kankhal, Tehsil and District-Haridwar.
4. Maharaj Chetan Dev Awdhoot Ashram Trust,
Kankhal Tehsil and District Haridwar,
Through Mahant Chetan Devi.

.....Respondents.

Dated: 05.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Narayan Singh Negi, Advocate for the petitioner and Standing counsel for the respondents no. 1 and 2.

By the present writ petition, the petitioner has challenged the order dated 1st April, 2006 passed by the respondent no. 1 in Rent Control Revision No. 1 of 2002.

Briefly stated, one Pt. Ram Kishan Sharma was living as a tenant in quarter No. 10/11 in Chetan Dev Kutia Kankhal, District-Haridwar. He died issueless and after the death of

Kishan Ram Sharma, the room in dispute has fallen vacant. The petitioner has applied for allotment of the aforesaid room.

The Rent Control and Eviction Officer vide order-dated 22.09.1989 has observed that the earlier tenant has died issueless. The petitioner has submitted that after notices were issued everyone has participated in the proceeding. The vacancy was declared on 28.01.1999 and thereafter an allotment order was passed on 02.02.1999 in favour of the petitioner and in compliance of the said order, the possession was handed over on 15.03.2001 in favour of the petitioner.

The respondent no. 3 has preferred a revision before the District Judge, Haridwar against the order of allotment. The said revision was allowed and the matter has been remanded to the Rent Control and Eviction Officer. The Rent Control and Eviction Officer has been directed to dispose of the application under Section 16(5) of the U.P. Act No. 13 of 1972 on merits.

I find no illegality in the order-dated 01.04.2006 passed by the respondent no. 1 in Rent Control Revision No. 1 of 2002 (Smt. Nisha Bishnoi Vs. Som Prakash Maheshwari and another) in as much as matter having been remanded, the Rent Control and Eviction Officer shall give due preference to the Order passed by the Rent Control and Eviction Officer allotting the accommodation in favour of the petitioner.

The writ petition, therefore, lacks merit. However, the petitioner shall continue in possession till the matter is finally decided by the Rent Control and Eviction Officer.

Writ petition is disposed of accordingly. No order as to costs.

(Rajesh Tandon, J.)

05.06.2006

Rathour